

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Romeo Filip, et al.,)	No. CV-13-01131-PHX-ROS
)	
Plaintiffs,)	ORDER
)	
vs.)	
)	
Nicolas Hayden, et al.,)	
)	
Defendants.)	
)	

The Notice of Removal states “Defendants Hayden and Jane Doe Hayden are residents of the State of California, located in Contra Costa County.”¹ It also states “Plaintiff Battle Foam is a citizen of California,” and “Plaintiff Outlaw Miniatures is a citizen of California.”² (Doc. 1 at 2). Based on these allegations, diversity of citizenship does not exist and this case must be remanded. *See Maniar v. FDIC*, 979 F.2d 782, 784-85 (9th Cir. 1992) (district courts may remand *sua sponte* for lack of subject matter jurisdiction).


¹ The “diversity statute, 28 U.S.C. § 1332, speaks of citizenship, not of residency.” *Kanter v. Warner-Lamber Co.*, 265 F.3d 853, 857 (9th Cir. 2001). Thus, alleging the Haydens are “residents of California” does not help establish diversity jurisdiction.

² Defendants are limited liability companies but the Notice of Removal does not allege the citizenship of the owners/members. *See Johnson v. Columbia Properties Anchorage, LP*, 437 F.3d 894, 899 (9th Cir. 2006) (“We therefore join our sister circuits and hold that, like a partnership, an LLC is a citizen of every state of which its owners/members are citizens.”).

1 Accordingly,

2 **IT IS ORDERED** this case shall be **REMANDED** to the Maricopa County Superior
3 Court.

4 DATED this 18th day of June, 2013.

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7 Roslyn O. Silver
8 Chief United States District Judge
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